

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|---|---|---------------------------|
| THERESA MARIE SIMEONE, Personal | : | |
| Representative of the Estate of Albert Francis | : | |
| Simeone, Jr., Deceased, and THERESA MARIE | : | CIVIL ACTION NO. 02CV4852 |
| SIMEONE, In Her Own Right, and | : | |
| MARY ANN LENGYEL, Personal | : | |
| Representative of the Estate of George Lengyel, | : | |
| Deceased, and MARY ANN LENGYEL, | : | JURY TRIAL DEMANDED |
| In Her Own Right | : | |
| Plaintiffs, : | | |
| v. : | | |
| BOMBARDIER CORPORATION GmbH, et al. | : | |
| Defendants. : | | |

APPENDIX

**TO REPLY MEMORANDUM OF LAW IN SUPPORT OF
SUMMARY JUDGMENT ON BEHALF OF DEFENDANTS
BRP-ROTAx GMBH & CO. KG AND BOMBARDIER INC.**

EXHIBIT CC

ORAL DEPOSITION OF RONALD G. MADISON, 6/30/05

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF PENNSYLVANIA
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5 THERESA MARIE SIMEONE,
6 etc., Et al.,

7 vs.

8 BOMBARDIER-ROTA
9 X
10 X
11 X
12 X
13 X
14 X
15 X
16 X
17 X
18 X
19 X
20 X
21 X
22 X
23 X
24 X

13 Oral deposition of RONALD
14 G. MADISON, held in the home of
15 Ronald G. Madison, 1517 KBS Road,
16 Spring Grove, Pennsylvania, held on
17 Thursday, June 30, 2005, commencing
18 at 4:09 p.m., before Kathleen McHugh,
19 a Registered Professional Reporter
20 and Notary Public.

ORAL DEPOSITION OF RONALD G. MADISON, 6/30/05

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| <p>1 then like off to the side, you know, 2 just looking down, more or less, I 3 thought I seen something off to my 4 right-hand side go down that wasn't 5 normal.</p> <p>6 So then I hollered down to 7 my daughter and I said about calling 8 911. She said, Dad, are you sure you 9 seen it?</p> <p>10 And then I, I wasn't quite 11 sure if I did or not. I said, Well, 12 then call the airport and tell them 13 that we seen something go down, and 14 that was about it.</p> <p>15 Q. And when you say you saw 16 something that wasn't normal and 17 didn't look normal, can you explain 18 what you mean by that?</p> <p>19 A. Like a plane, it was low 20 when I seen it, and it just went off 21 into the right and went down, but I 22 didn't know if it went down the whole 23 way, if it hit the ground or if it 24 just flew out over top of the</p> | <p style="text-align: right;">Page 10</p> <p>1 Q. Was he on the roof, too? 2 A. Yes. 3 Q. Is this something that sort 4 of appeared out of the corner of your 5 eye? 6 A. Yes. 7 Q. And are you sure that what 8 you saw was an aircraft of some kind? 9 A. I knew it was an aircraft 10 of some kind, yes. 11 Q. And how did you know it was 12 an aircraft? 13 A. They're flying around all 14 the time and it was over the top of 15 the cornfield. 16 Q. So you knew it was 17 something that was in the air flying, 18 right? 19 A. Yes. 20 Q. Did you get enough of a 21 look at the airplane to tell us what 22 color it was? 23 A. Yellow, I guess. It's been 24 a long time.</p> |
| <p>1 cornfield, because I didn't hear no 2 noise.</p> <p>3 Q. When you saw what you saw, 4 were you standing or kneeling on your 5 roof or sitting?</p> <p>6 A. Just bending. Bending 7 and -- well, looking -- well, I guess 8 be more or less standing, but not 9 staring. You know, I was working on 10 my roof but, you know, you could see 11 off to the sides, you know.</p> <p>12 Q. You were not paying any 13 particular attention to what was 14 going on at the airport?</p> <p>15 A. No. No.</p> <p>16 Q. And if I understand you 17 correctly, your gaze was not fixed on 18 the airport either, right?</p> <p>19 A. Right.</p> <p>20 Q. Were you looking at what 21 you were doing?</p> <p>22 A. More or less, or talking to 23 my brother-in-law Charlie. 24 Either/or.</p> | <p style="text-align: right;">Page 11</p> <p>1 Q. And what direction was it 2 heading in when you first saw it? 3 A. It was sort of like heading 4 towards the airport but bearing off 5 and going down to the right, more or 6 less. It just like -- I don't know. 7 Off to the right.</p> <p>8 Q. And for how long did you 9 have the airplane in your site?</p> <p>10 A. I'm saying 15 seconds or 11 so. It was just a --</p> <p>12 Q. And in that -- over that 15 13 seconds, how long, if at all, were 14 you actually focused on the aircraft?</p> <p>15 A. I can't say I was really 16 focused at the aircraft. It was just 17 I seen an aircraft. I can't really 18 say I was focused at it. That's why 19 I say just call the airport, did I 20 see it or not.</p> <p>21 Q. And during the 15 seconds, 22 did the aircraft appear to be 23 maintaining a constant speed or were 24 there changes in the speed?</p> |

ORAL DEPOSITION OF RONALD G. MADISON, 6/30/05

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|---|--|
| <p style="text-align: right;">Page 14</p> <p>1 A. No, it -- like I say, when 2 I seen it, it went off to the right, 3 and I didn't know if it went down 4 into the cornfield or slid -- you 5 know, was that low that it could 6 glide out over the corn, and then I 7 lost site.</p> <p>8 Q. Did it appear to you to be 9 having any type of a problem?</p> <p>10 A. The way it was flying I 11 thought it might be having a problem 12 but it didn't -- I didn't hear no 13 noise, no nothing. I didn't hear no 14 bang when it did wreck or nothing.</p> <p>15 Q. Did you hear any engine 16 noise at any point?</p> <p>17 A. No. No.</p> <p>18 Q. When planes are coming in 19 to land at the airport, are you 20 typically able to hear engine noise?</p> <p>21 A. Yes.</p> <p>22 Q. And when you said a moment 23 or two ago that you didn't hear any 24 noise, were you referring to -- what</p> | <p>1 like into a glide. It wasn't no 2 fast, sharp, straight down or 3 nothing -- not the way I seen it.</p> <p>4 Q. Are you familiar with a 5 series of towers and power lines that 6 slope down from -- they go over KBS 7 Road and then slope down towards the 8 airport?</p> <p>9 A. Yes.</p> <p>10 Q. Did you -- can you relate 11 the location of the aircraft to those 12 power lines as you were able to see 13 that day?</p> <p>14 A. The way you're on the roof, 15 I don't even know if you can see the 16 power lines or not, but the way I 17 thought, he never touched or they 18 weren't no problem with the power 19 lines.</p> <p>20 Q. What makes you say that?</p> <p>21 A. Because you'd think -- not 22 unless he nipped them, but the way he 23 was going down, I don't think the 24 power lines had anything to do with</p> |
| <p style="text-align: right;">Page 15</p> <p>1 were you specifically referring to? 2 A crash noise or an engine noise or 3 some other kind of noise?</p> <p>4 A. Well, when I seen the plane 5 going down, I didn't really hear no 6 noise at all as a plane noise and I 7 didn't hear no crash, if -- when it 8 did go down.</p> <p>9 Q. And what led you to think 10 that it might have been having a 11 problem?</p> <p>12 A. The way it was angled going 13 down. Like I say, when I was asked 14 about it, you sort of think about it, 15 did it go out over the corn or did it 16 go into the corn.</p> <p>17 Q. And could you describe that 18 angle a little more specifically? 19 Let me ask you a different question. 20 When you refer to an angle, 21 are you referring to an angle in 22 which it was turning or an angle in 23 which it was going up, down?</p> <p>24 A. Going down more or less,</p> | <p>1 it.</p> <p>2 Q. I'm just trying to get at 3 why you would say that, one way or 4 the other?</p> <p>5 A. Because I think he was out 6 further than the power lines when it 7 was going down.</p> <p>8 Q. And by "out further," you 9 mean he wasn't -- the path that he 10 was taking towards the airport was 11 not near the power lines?</p> <p>12 A. When he -- he was going 13 off -- from the power lines he was 14 headed off to the right of them.</p> <p>15 Q. So --</p> <p>16 A. The way I thought.</p> <p>17 Q. So from your point of view, 18 if I could relate it this way, he was 19 not between your house and the power 20 lines, he was on the other side of 21 the power lines?</p> <p>22 A. Yes.</p> <p>23 Q. And from your point of 24 view, what was the height of the</p> |

ORAL DEPOSITION OF RONALD G. MADISON, 6/30/05

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| <p>1 aircraft relative to the power lines? 2 A. I think he was above them a 3 little bit. I think. 4 Q. And by "a little bit," 5 could you give us some sort of an 6 estimate? 7 A. No. 8 Q. When you say you think he 9 was a little bit above them, can you 10 give me -- what's your level of 11 certainty on that? 12 A. You know when you're far 13 away things -- you know it -- I can't 14 really give you an answer on that. 15 Q. Have there been other plane 16 crashes around here when you've been 17 here? 18 A. Yes. 19 Q. About how far from your 20 house? 21 A. They would have been like 22 at the end of the runway down there, 23 that one lady I think was killed a 24 couple years ago. That one I can</p> | <p>Page 18</p> <p>1 Q. Did you expect to hear the 2 sound of an engine? 3 A. Not really. He was far 4 enough away and low, I wasn't 5 expecting, no. 6 Q. When you first saw this 7 plane that crashed out of the corner 8 of your eye, how long did you see it 9 before it went into this turn that 10 you described? 11 A. It was -- everything 12 happened so quick. So I can't really 13 tell you. 14 Q. How would you compare the 15 altitude of this aircraft to other 16 aircraft that you see coming in for a 17 landing? 18 A. He was low. 19 Q. Was he a little low or real 20 low? 21 A. He was low enough that I 22 thought there was something the 23 matter. 24 Q. Have you seen other</p> |
| <p>1 remember. And that's about all I can 2 think of. 3 Q. And were you outside when 4 that happened? 5 A. No, we were inside the 6 house here. 7 Q. Were you able to hear it 8 crash? 9 A. No. 10 Q. Have you ever heard a plane 11 crash around here? 12 A. No. 13 Q. Did you hear the sound of 14 an engine before you saw this 15 particular plane that was involved in 16 the crash that day? 17 A. From another airplane or 18 something? 19 Q. No, from this airplane. 20 A. No. 21 Q. So over the whole 15 22 seconds, did you ever hear the sound 23 of an engine? 24 A. No.</p> | <p>Page 19</p> <p>1 aircraft come in for a landing at 2 such a low altitude? 3 A. No. 4 Q. Could you estimate how far 5 from the runway this aircraft was 6 when you first saw it? 7 A. No, I can't even give you 8 an answer on that either. 9 Q. Once you got this notion 10 that there was something wrong, did 11 you keep your eye on the aircraft 12 continuously after that? 13 A. Well, you couldn't see 14 nothing after. Like I say, it was 15 above the corn and then it went over 16 the corn or in the corn, because 17 that's when I lost eyesight to it. 18 Q. And is that what you 19 thought was wrong, that it had gone 20 into the corn? 21 A. It was that or glided out 22 over it. 23 Q. And in your mind, either 24 way, that was wrong to be going into</p> |

EXHIBIT DD

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA

3 CASE NO. 2:02-CV-04852-(BMS)

4 THERESA MARIE SIMEONE, ETC., et
5 al.,

6 Plaintiffs,

7 ORIGINAL

8 vs.

9 BOMBARDIER-ROTAX, GmbH, et al.,

10 Defendants.

11 DEPOSITION OF BEN DAWSON

12 Friday, August 12, 2005

13 10:04 a.m. - 11:35 a.m.

14 MARRIOTT AT TAMPA INTERNATIONAL AIRPORT
15 TAMPA INTERNATIONAL AIRPORT

16 TAMPA, FLORIDA

17

18 -----
19 REPORTED BY:

20 MICHELLE OLSEN BADEN, RPR

21 Notary Public

22 State of Florida at Large

23 Esquire Deposition Services - Tampa, Florida

24 813-221-2535 (800-838-2814)

25 Job No.: N749169

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1 Q And you mentioned the term "these rules" in
2 your last answer. What rules were you referring to?

3 A The rules -- the regulations for flying
4 ultralight aircraft. They had speed restrictions and
5 all the rest of that stuff that goes with it. Flying at
6 safe speeds.

7 Q Do the rules include a rule for being able to
8 land the aircraft in case of sudden engine failure?

9 MR. MATTIONI: Object to form.

10 THE WITNESS: Yes.

11 BY MR. KELLY:

12 Q Did you discuss that with Mr. Simeone at some
13 point?

14 A It says I did stall stuff in there. And yes,
15 engine out procedures are -- like I say, those are
16 taught early on. After just a few flights we reduce the
17 throttle to idle and show them how the plane will glide
18 and we tell them what speed the airplane should be at
19 that point. We actually go up to 1500, 2000 feet and
20 reduce the power and then glide down as much as 500 feet
21 or so and demonstrating how much the plane will glide
22 and making turns. Turning while the engine is at idle
23 is also taught as part of the process.

24 Q When you say part of the process, would that
25 have been part of the process that you covered in your

Page 35

1 a box or a crate.

2 Q Did Interplane distribute any manuals with its
3 aircraft?

4 A Yes.

5 Q What manuals did Interplane distribute?

6 A We gave them the factory original manuals that
7 came with the Rotax engines to the person purchasing the
8 aircraft.

9 Q Did Interplane also have its own manual?

10 A At that point in time I don't think we did.

11 Q At that point in time being around the time
12 that --

13 A Fran Simeone bought his airplane.

14 Q So would you have given Mr. Simeone any other
15 manuals, other than the Rotax manuals?

16 MR. MATTIONI: Object to the form.

17 THE WITNESS: Training manuals would have been
18 the only other thing that he might have gotten, the

19 USUA training manuals, plus -- there is three basic
20 manuals that go with the Rotax engine. There is an
21 installation manual. There is the maintenance
22 manual and then there is the operator's manual, as I
23 remember right.

24 BY MR. KELLY:

25 Q And as part of your sales or training

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1 practice, did you go through the manuals with your
2 customers?

3 A Not generally. We covered the routine
4 problems with the engine, if it had such, or what might
5 be potential -- let me rephrase that -- potential
6 problems with the engine, you know, about changing your
7 spark plugs and how they had to do it and checking for
8 leaks and, you know, water, checking the water. All of
9 that was done on preflight, and so that kind of stuff we
10 covered pretty much there. As far as the full
11 operator's manual, no, it's pretty dry reading. We gave
12 that to them.

13 Q I'm going to show you what we marked Simeone 8
14 which was a manual provided to us by Mrs. Simeone, I
15 believe.

16 (Simeone Exhibit 8 was previously marked.)

17 BY MR. KELLY:

18 Q It is a Rotax 582 operator's manual and I want
19 to direct your attention to page 4.

20 MR. MATTIONI: I'll just follow along.

21 MR. KELLY: I'll read it so everybody knows
22 what we're talking about. Two paragraphs. Reads:

23 "This engine by its design is
24 subject to sudden stoppage. Engine
25 stoppage can result in crash landings.

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1 Such crash landings can lead to serious
2 bodily injury or death. Never fly the
3 aircraft equipped with this engine at
4 locations, air speeds, altitudes or
5 other circumstances from which a
6 successful no-power landing cannot be
7 made after sudden engine stoppage."

8 I'll put this in front of you and ask you if I
9 read it correctly?

10 A Yes.

11 Q Did you ever discuss that particular language
12 with Mr. Simeone?

13 A Yes. I will say very probably, okay. Because
14 one of the things that we teach as part of the flight

15 training when we're flying with the 2-cycle motors is
16 that you always have an emergency landing field in
17 sight. And because of that the ultralight aircraft
18 would take -- if they were going from Point A to point
19 B, they may take a varied route flying from this
20 emergency landing spot to that emergency landing spot,
21 and so forth. So emergency landing spots, again, that
22 is something we always covered.

23 Q Now, going back to when Mr. Simeone helped
24 sell a Skyboy or two at one of the air shows. Did he
25 receive any training from you as to what he should do?

EXHIBIT EE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

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THERESA MARIE SIMEONE,
etc., Et al.,

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vs.

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BOMBARDIER - ROTAX,

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GmbH, et al. 2:02-cv-04852 (BMS)

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Oral deposition of MANUEL
held in the offices of The
Firm, 1710-12 Locust Street,
Philadelphia, Pennsylvania, held on
, August 24, 2005,
at 10:05 a.m., before
McHugh, a Registered
Professional Reporter and Notary

ORAL DEPOSITION OF MANUEL RAEFSKY, 8/24/05

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| <p style="text-align: right;">Page 74</p> <p>1 A. Yeah.</p> <p>2 Q. And to your knowledge, were 3 the spark plugs involved in this 4 accident aircraft ever inspected or 5 replaced?</p> <p>6 A. Well, I presume that they 7 were because I presume that the guy 8 is not suicidal and he's going to 9 take care of it.</p> <p>10 Q. Do you have any factual 11 basis for your presumption?</p> <p>12 A. I -- well, there are no 13 logs, so, you know, there would be an 14 entry in a logbook somewhere. So I 15 can't say that.</p> <p>16 Q. At the --</p> <p>17 A. On the other hand, I have 18 no information that he didn't do it.</p> <p>19 Q. At the top of Page 6, the 20 second bullet point, you state: 21 There is no evidence that the engine 22 had been adjusted or that the plugs 23 were not the original plugs.</p> <p>24 A. That's correct.</p> | <p style="text-align: right;">Page 76</p> <p>1 first words, or the second and third, 2 what do you mean by "heat rated"?</p> <p>3 A. Well, each plug has a heat 4 rating. And as I told you, that 5 deals with the capacity or the 6 capability to draw temperature away 7 from the tip of the plug. And they 8 alter that by changing the length of 9 the center electrode. So the longer 10 it is or the shorter it is, that 11 affects the -- that affects the heat 12 rate and the heat flow out of there.</p> <p>13 Q. And what was the heat 14 rating for the spark plugs that you 15 examined?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you know what the make 18 and model was of these plugs?</p> <p>19 A. Yeah, it's in the manual. 20 It's a BR8ES, 14-millimeter 21 plug.</p> <p>22 Q. Do you know who makes that 23 plug?</p> <p>24 A. No, I don't.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 Q. Do you stand by that 2 statement today?</p> <p>3 A. Well, I stand by it in that 4 there's no evidence they were not. 5 You know, I can't tell one way or the 6 other. And, as I say, I presume that 7 he followed the manual.</p> <p>8 Q. And the basis for your 9 presumption is that he was not 10 suicidal?</p> <p>11 A. I think that's pretty good.</p> <p>12 Q. Well, you're presuming that 13 he's not suicidal?</p> <p>14 A. Yeah.</p> <p>15 Q. So it's a presumption on 16 top of a presumption then, isn't it?</p> <p>17 MR. MATTIONI: This will be 18 my second objection.</p> <p>19 THE WITNESS: Well, I'm 20 also presuming he wasn't a murderer, 21 because he killed the other guy, too, 22 so...</p> <p>23 BY MR. KELLY:</p> <p>24 Q. Staying on Page 6, the very</p> | <p style="text-align: right;">Page 77</p> <p>1 Q. Is it your opinion that the 2 plugs involved in this accident were 3 not properly heat rated?</p> <p>4 A. Again, you have to look at 5 it in the context of the other items 6 that I talked about, the fuel charge 7 and the oil. Okay. For whatever 8 those circumstances were, they should 9 have had a hotter plug. Or if we 10 wanted to use this plug, we should 11 have done something about the 12 carburetion and oil injection.</p> <p>13 Q. So they should have had a 14 hotter plug for this combination of 15 air and fuel and oil injection; is 16 that right?</p> <p>17 A. Right. Or this plug with a 18 different combination of air, fuel, 19 and oil.</p> <p>20 Q. Is it your opinion that 21 Rotax selected the wrong spark plug 22 for this 582 engine?</p> <p>23 A. I have no opinion one way 24 or the other. If the plug is cleaned</p> |

ORAL DEPOSITION OF MANUEL RAEFSKY, 8/24/05

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| <p style="text-align: right;">Page 90</p> <p>1 way or the other, but I saw nothing 2 that would indicate that there was a 3 test.</p> <p>4 Q. You indicate that when 5 the -- in the middle of that 6 paragraph on Page 5: When the plugs 7 were retested, some improvement was 8 noted which would be expected since 9 firing the plugs burns the oil and 10 debris away and in the test there is 11 nothing to replace the vaporized oil, 12 this allowing some improvement. 13 Did I read that correctly?</p> <p>14 A. That's correct.</p> <p>15 Q. Do you have an opinion as 16 to whether the debris and oil on the 17 tips of the plugs was present at the 18 time that Mr. Simeone and Mr. Lyngyel 19 took off on the day of their 20 accident?</p> <p>21 A. Do I have an opinion 22 whether it was there?</p> <p>23 Q. Yes.</p> <p>24 A. Most likely it was.</p> | <p style="text-align: right;">Page 92</p> <p>1 second test when it was improved, it 2 was a -- how did he phrase it? A 3 weak spark or a -- you know, 4 indicating that it was not a healthy 5 spark. And let me tell you, when 6 that plug fires, it's lightning in 7 there.</p> <p>8 Faint. He used the word 9 "faint." And it's anything but faint 10 when it's proper.</p> <p>11 Q. Did you examine the plugs 12 after they had been plug tested by 13 Mr. Sommer?</p> <p>14 A. No.</p> <p>15 Q. Have you seen any pictures 16 of the plugs after they had been plug 17 tested by Mr. Sommer?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have --</p> <p>20 A. I saw some after an engine 21 test, and they were cleaned, which 22 said that, you know, in the new test 23 set-up, they burned everything off, 24 which allowed them to say that the</p> |
| <p style="text-align: right;">Page 91</p> <p>1 Q. Would it have burned off 2 over the course of their flight?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. The reason is that in a 6 test you don't have it in a cylinder 7 which is getting charged. You know, 8 it's just an electrical test; it's 9 not a functional test. In the 10 cylinder, every time it fires, piston 11 goes down, you bring in a new charge 12 of oil, fuel, the piston compresses 13 it, it explodes, doesn't burn off the 14 accumulated stuff, so you just keep 15 adding to it, keep adding to it.</p> <p>16 In the test, you're not 17 adding the fuel charge. So whatever 18 you burn off, you burn off. And it 19 gets better with time. In the engine 20 it gets worse with time.</p> <p>21 So the test is not 22 reflective of an actual situation. 23 And the -- you know, even Weldon 24 said, well, even after -- even in the</p> | <p style="text-align: right;">Page 93</p> <p>1 plugs were operable, but, you know, 2 those plugs when they're dirty and 3 oily like that or, you know, sooty 4 like that, the more you run them in a 5 clean environment, the better they 6 get.</p> <p>7 Q. Could the fouling of the 8 spark plugs have been discovered by 9 Mr. Simeone and Mr. Lyngyel prior to 10 their flight on July 22nd, 2000?</p> <p>11 MR. MATTIONI: Object to 12 the form.</p> <p>13 THE WITNESS: Well, it's 14 possible if they pulled the plugs.</p> <p>15 BY MR. KELLY:</p> <p>16 Q. Was there anything 17 preventing them from pulling the 18 plugs and examining them before their 19 flight on July 22nd, 2000, to your 20 knowledge?</p> <p>21 MR. MATTIONI: Same 22 objection.</p> <p>23 THE WITNESS: Well, there's 24 nothing that prevented it and there's</p> |

ORAL DEPOSITION OF MANUEL RAEFSKY, 8/24/05

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| <p style="text-align: right;">Page 94</p> <p>1 nothing that prevented them from not 2 taking off, you know, it's that kind 3 of a situation. 4 BY MR. KELLY: 5 Q. In other words, that 6 fouling was there to be seen before 7 they took off, correct? 8 MR. MATTIONI: Same 9 objection. 10 THE WITNESS: They would -- 11 I think -- in my opinion, they would 12 have seen something had they looked 13 at that time. 14 BY MR. KELLY: 15 Q. Another term that you use 16 is the "cleaning and gapping of 17 plugs." Could you just tell me what 18 you mean by that? I think that's in 19 that same paragraph that I won't go 20 away from. 21 A. Yeah. Cleaning and 22 gapping -- well -- 23 Q. Yes. Cleaning and gapping. 24 A. And gapping. All right.</p> | <p style="text-align: right;">Page 96</p> <p>1 outer electrode or the ground 2 electrode down until it's a tight 3 fit. If you can't get the wire in 4 there, then you open it up with a 5 screwdriver. 6 Q. As a simple mechanical 7 action? 8 A. Every mechanic knows how to 9 do it. 10 Q. You just take a screwdriver 11 and make it a little wider? 12 A. And pry it up or you bend 13 it on a piece of steel or something 14 to close it. And there are spark 15 plug gap feeler gauges that are 16 little hooked wires, L-shaped wires, 17 of varying diameters that you slip in 18 there. 19 Q. And is cleaning and gapping 20 part of routine maintenance of spark 21 plugs? 22 MR. MATTIONI: Object to 23 the form. 24 THE WITNESS: Well, in a</p> |
| <p style="text-align: right;">Page 95</p> <p>1 The opening between the center 2 electrode and the ground electrode is 3 called the gap, okay, that open 4 space, and that's what the spark is 5 supposed to jump. Now, that gap has 6 to be within certain tolerances. If 7 it's too narrow, the plug will fire 8 early. If it's too big, it may not 9 fire at all. Okay. So you -- that's 10 one of the variables that you've got 11 to deal with. 12 The second, of course, is 13 the cleanliness of it. Now, in the 14 old days when I was a kid with a '48 15 Chevy, you would pull the plugs, you 16 would sandblast them to clean them, 17 and then you would set the gap. So 18 that's what you do. 19 Q. How do you set the gap? 20 A. What you have is a little 21 piece of wire that's at the proper 22 thickness, proper diameter, in this 23 case 20,000ths, and you slip it in 24 there. If it goes, you squeeze the</p> | <p style="text-align: right;">Page 97</p> <p>1 sense it is, but they don't tell 2 you -- you know, one of the things 3 that's light in this manual is they 4 don't tell you what to do. When 5 somebody gives you an instruction to 6 inspect something, they've got to 7 tell you what to look for and they've 8 got to tell you what the accept and 9 reject criteria are. That's missing 10 here. 11 So if it's -- you know, I 12 would not go by this because it's not 13 full enough in its explanation. It's 14 deficient as far as a warning or 15 instruction goes. 16 BY MR. KELLY: 17 Q. Does the manual at any 18 point instruct the user to have the 19 engine serviced by a qualified Rotax 20 mechanic? 21 A. Somewhere it says that. 22 Q. Is that sufficient advice? 23 MR. MATTIONI: Object to 24 the form.</p> |

EXHIBIT FF

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
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4 THERESA MARIE SIMEONE,
5 Personal Representative of the
6 Estate of Albert Francis Simeone,
7 Jr., Deceased, et al.,

8 Plaintiff

9 V No. 02-4852
10 BOMBARDIER-ROTAX GMBH,
11 Individually and as a Joint Venture
12 And/or d/b/a Rotax, et al.,

13 Defendant

14 Oral deposition of HERBERT
15 C. NEWBOLD, taken at the law offices
16 of The Wolk Law Firm, 1710-12 Locust
17 Street, Philadelphia, Pennsylvania,
18 on Friday, August 26, 2005,
19 commencing at approximately
20 a.m. before Maureen E.
21 Broderick, a Registered Professional
22 Reporter, pursuant to notice.

ORAL DEPOSITION OF HERBERT C. NEWBOLD, 8/26/05

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| <p>1 A. Yes.</p> <p>2 Q. Would you tell me what you 3 mean by the term "significant" in 4 that sentence?</p> <p>5 A. Based on my experience with 6 two-stroke engines and based on my 7 understanding that the engine had 8 limited time, I would have concluded 9 that there were significant deposits.</p> <p>10 The tops of the pistons 11 were covered with carbon and the 12 spark plugs themselves were -- had 13 significant carbon deposits, 14 "significant" meaning to me that that 15 wasn't something that you'd expect 16 with a normal operation of this 17 engine.</p> <p>18 Q. So "significant" meaning 19 more than you would expect given your 20 understanding of the engine running 21 time?</p> <p>22 MR. MATTIONI: Objection.</p> <p>23 BY MR. KELLY:</p> <p>24 Q. Is that fair?</p> | <p>Page 78</p> <p>1 experience, is that carbon build-up 2 something that occurs suddenly or is 3 it a cumulative effect that occurs 4 over time?</p> <p>5 MR. MATTIONI: Objection.</p> <p>6 THE WITNESS: It can 7 actually happen both ways.</p> <p>8 BY MR. KELLY:</p> <p>9 Q. In your examination, were 10 you able to determine whether this 11 was a cumulative deposit of carbon or 12 a sudden deposit of carbon?</p> <p>13 A. With only -- with only 14 roughly 35 hours on the engine, it's 15 going to -- it's going to be fairly 16 sudden. Although, whether it 17 happened in the last, whatever, ten 18 hours of the engine operation as 19 opposed to whether it occurred over 20 the full 35 engine hours would be 21 difficult to tell.</p> <p>22 Q. What is your understanding 23 of how long the final flight of this 24 aircraft was that day in terms of</p> |
| <p>1 MR. MATTIONI: Objection.</p> <p>2 THE WITNESS: Given my --</p> <p>3 well, yeah, generally speaking, yes.</p> <p>4 BY MR. KELLY:</p> <p>5 Q. By using the word 6 "significant" are you suggesting that 7 it was at a level that would 8 interfere with the functioning of the 9 engine?</p> <p>10 A. Yes, I believe that it 11 would have. Yes.</p> <p>12 Q. How do you make a 13 determination that a level of carbon 14 deposit is significant enough to 15 interfere with the functioning of the 16 engine?</p> <p>17 A. I guess I would base that 18 opinion on roughly 40 years of 19 examining two-stroke spark plugs and 20 what a spark plug may look like with 21 a properly operating engine and what 22 a plug may look like if the engine is 23 not running properly.</p> <p>24 Q. And in your 40 years of</p> | <p>Page 79</p> <p>1 time?</p> <p>2 A. Maybe just a little bit 3 over an hour.</p> <p>4 Q. Do you believe that the 5 deposits that you saw on the spark 6 plugs were visible before the 7 beginning of the flight that day?</p> <p>8 MR. MATTIONI: Object to 9 the form.</p> <p>10 THE WITNESS: It's 11 possible. I would think that it's 12 more probable that those deposits 13 would occur a little bit -- over a 14 longer period of time than just an 15 hour, particularly the deposits that 16 you see on the pistons. But it may 17 be possible.</p> <p>18 BY MR. KELLY:</p> <p>19 Q. But if one had examined the 20 spark plugs before the commencement 21 of flight on the day of the accident 22 one would have seen these deposits, 23 correct?</p> <p>24 MR. MATTIONI: Object to</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 the form.</p> <p>2 THE WITNESS: You may have 3 seen some deposits. Whether you 4 would have seen the deposits to this 5 degree, probably not. But you should 6 have probably seen some deposits.</p> <p>7 BY MR. KELLY:</p> <p>8 Q. Does Rotax have a suggested 9 maintenance and inspection schedule 10 for these spark plugs?</p> <p>11 A. If I recall correctly, it's 12 about every 12 1/2 hours, or 13 something like that.</p> <p>14 Q. If those spark plugs had 15 been inspected every 12 1/2 hours, 16 would you expect that the deposit 17 would have been observable by the 18 inspector?</p> <p>19 MR. MATTIONI: Object to 20 the form.</p> <p>21 THE WITNESS: It's 22 possible, yes. It's -- because I 23 can't say exactly when the deposits 24 would occur, I can't say exactly what</p> | <p style="text-align: right;">Page 84</p> <p>1 check them every so often.</p> <p>2 Q. Did you read the deposition 3 of Mr. Losey, who was the flying 4 companion of Mr. Lengyel and 5 Mr. Simeone that day?</p> <p>6 A. Yes.</p> <p>7 Q. Did Mr. Losey report on 8 communications that he was having 9 with Mr. Simeone and Mr. Lengyel as 10 the flight proceeded?</p> <p>11 A. Yes.</p> <p>12 Q. Did he report that there 13 was any complaint of engine problems 14 as the flight proceeded?</p> <p>15 A. None that he reported.</p> <p>16 Q. Moving right along to the 17 next sentence, you state, "Also 18 present was excessive amounts of 19 two-stroke engine oil in the intake 20 manifold and crankcase."</p> <p>21 A. Yes.</p> <p>22 Q. What do you mean by 23 "excessive"?</p> <p>24 A. It appeared to me that</p> |
| <p style="text-align: right;">Page 83</p> <p>1 you might see.</p> <p>2 My suspicion would be -- or 3 my opinion, I guess, would be that as 4 the engine develops carbon build-up, 5 its operation is going to get 6 increasingly poorer. And so whether 7 you would -- let's say, as an 8 example, exactly what they would look 9 like at some point in time may not be 10 an exact science.</p> <p>11 BY MR. KELLY:</p> <p>12 Q. Why would Rotax recommend 13 that the spark plugs be inspected 14 every 12 1/2 hours?</p> <p>15 A. That would just be a -- 16 based on how the engine is going to 17 be used, it may just be a safety 18 issue.</p> <p>19 Q. Safety in what respect?</p> <p>20 A. Well, you wouldn't want to 21 have an engine -- or you wouldn't 22 want to have, in your engine, spark 23 plugs that are contaminated. And, 24 you know, it would be appropriate to</p> | <p style="text-align: right;">Page 85</p> <p>1 there was more oil laying in the 2 manifolds and on the -- or in the 3 area of the combustion chamber than 4 what I would normally expect to see.</p> <p>5 Q. Is it normal to see some 6 oil laying in the area of the 7 manifolds and in the area of the 8 combustion chamber?</p> <p>9 A. Yes.</p> <p>10 Q. And how do you distinguish 11 between a normal amount and an 12 excessive amount?</p> <p>13 A. Well, that's a good 14 question. You would probably need to 15 know kind of how the engine -- some 16 conditions surrounding the engine 17 itself. And -- but an engine that 18 was not damaged and functioning 19 properly, I wouldn't expect to see as 20 much oil in those areas as what I 21 did.</p> <p>22 Q. How much did you see?</p> <p>23 A. In terms of volume?</p> <p>24 Q. Yes.</p> |